Notice of Funding Availability (NOFA)

MULTIFAMILY HOUSING PROGRAM (MHP)
HOMELESS YOUTH HOUSING

January 31, 2007

State of California
Department of Housing and
Community Development

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STATE OF CALIFORNIA -BUSINESS, TRANSPORTATION, AND HOUSING AGENCY ARNOLD SCHWARZE nor

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MULTIFAMILY HOUSING PROGRAM
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PROGRAM DESCRIPTION

A. Introduction

The California Department of Housing and Community Development (hereinafter "HCD" or "Department") announces the availability of approximately $24 million for the development of housing for homeless youth under the Multifamily Housing Program (MHP). Available funds were appropriated by the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C). Applications will be accepted on an "over-the-counter" basis beginning on March 9, 2007.

Information on all of these funding opportunities is or will be available on the Department's website at http://www.hcd.ca.gov/fa/mhp.

B. Legal Authority

MHP was established by SB 1121, Statutes of 1999 (Alarcón), which created Chapter 6.7, commencing with Section 50675, of the Health and Safety Code. Section 53545(a)(1)(A)(ii) of the Health and Safety, added by Proposition 1C, appropriated funds specifically for housing for homeless youth. As authorized by Section 50675.11, the $50 million allocation for homeless youth housing will be operated initially under guidelines, rather than formally promulgated regulations. These guidelines will consist of the regulations governing the Supportive Housing component of MHP, as modified by the provisions of this NOFA. (The relevant regulations are the MHP Regulations and the Uniform Multifamily Regulations, available at http://www.hcd.ca.gov/fa/multifamilyregs.html.) Applications are also subject to the applicable statutory requirements (including those of Proposition 1C and SB 1689 of 2006).

All section references in this NOFA refer to the MHP regulation text posted on the Department website, unless otherwise noted. UMR section references refer to the Uniform Multifamily Regulations.

C. Program Summary

MHP is a streamlined, omnibus financing program for affordable multifamily housing developments. It provides funds to cover development (capital) costs only, and cannot be used for services or operating subsidies.

Applicants may apply for funding for: (1) projects containing Homeless Youth Units only or (2) projects containing Homeless Youth Units and other units (mixed projects). Under this NOFA, maximum loan amounts will be based on the number of Homeless Youth Units, and 9 percent tax credit projects are eligible.

"Homeless Youth Units" means housing units linked to supportive services, where both:

1. occupancy is restricted to households that, upon move-in, include a "homeless youth", as defined in Paragraph D below; and

2. the limits on household income, duration of occupancy and rent set forth in Paragraph E apply.

D. Target Population / Eligible Households

Households eligible to occupy assisted units must include a "homeless youth," which is defined in Government Code Section 11139.3(e)(2) as either:

(A) A person who is at least 18 years of age, but not older than 24 years of age, and meets one of the following conditions:
  (i) Is homeless or at risk of becoming homeless.
  (ii) Is no longer eligible for foster care on the basis of age.
  (iii) Has run away from home.

(B) A person who is less than 18 years of age who is emancipated pursuant to Part 6 (commencing with Section 7000) of Division 1 of the Family Code and who is homeless or at risk of becoming homeless.

"At risk of becoming homeless" means "facing eviction or termination of one's current housing situation." This includes, for example, households who face imminent release from an institution (i.e. jail or hospital) where other housing placement resources are not available, households who reside in an overcrowded setting (more than two persons per living/sleeping area) in which the household does not hold a lease, and households who reside in substandard housing subject to a current official vacation notice.

"Homeless" means the same as that term is defined for MHP – Supportive Housing:

1. moving from an emergency shelter; or
2. moving from transitional housing; or
3. currently homeless, meaning:

a. an individual who lacks a fixed, regular, and adequate nighttime residence; or
b. an individual who has a primary nighttime residence that is:
    i. a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or
    ii. an institution that provides a temporary residence for individuals intended to be institutionalized; or
    iii. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Eligible households need not be disabled, as is required under MHP-Supportive Housing.

E. Limits on Rent, Tenant Income and Duration of Occupancy

Rents and tenant incomes for Homeless Youth Units must be restricted for 55 years in accordance with the income limits proposed by the project sponsor in their MHP application, with rents not exceeding 30 percent of the applicable income limit.

Generally, the maximum allowable income limit for Homeless Youth Units is the MHP “A” limit, as shown in the table to be posted on the Department website at http://www.hcd.ca.gov/fa/mhp/; this limit is approximately 40 percent of state median income in high cost areas and 35 percent elsewhere. However, the Department will consider exceptions to this general rule where the sponsor provides conclusive evidence that the youth who will likely occupy the project will be able to afford higher rents upon termination of a transitional subsidy for their unit.

Projects will be underwritten at the rent limits for the income levels proposed in the application. The Department’s first year debt coverage ratio requirement of 1.1 to 1.2 will be applied using the maximum rents allowable, given all of the restrictions applicable to the project.

Sponsors must maintain the agreed-upon number of units occupied by eligible households including at least homeless youth under age 25. Sponsors may satisfy this requirement either by requiring that occupants move when they turn 25, or, in projects that mix units for homeless youth with those for other populations, and to the extent that turnover among the “other” units is sufficient, by re-designating units to maintain the required number of units occupied by eligible households.

Sponsors may also elect to operate the assisted housing as traditional transitional housing, with a requirement that occupants move after a certain period, which may be before they turn 25. HCD’s Emergency Housing Assistance Program Capital Development is available to those seeking funding for emergency shelter.

As part of the application process, applicants must demonstrate that viable options are available for the placement of youth once they are no longer eligible to occupy Homeless Youth Units.

Assisted unit rent increases will be limited in accordance with the rules governing tax credit units and as specified in Sections 7311 and 7312. Where the project receives rental assistance subsidies, “rent” is defined as the tenant’s contribution, rather than the contract rent level.

F. Rent Subsidies

The Department expects Homeless Youth Units to be occupied by youth with extremely limited income, at least when they move in. Accordingly, sponsors will need to secure ongoing subsidies to cover the difference between rents affordable to homeless youth and the cost of operating the housing. These subsides may be reduced over time, based on how long a particular tenant has occupied their unit.

G. Relation to Other Proposition 1C Funding

This NOFA offers funding earmarked exclusively for housing for homeless youth. However, two other components of MHP will also be available over the next several years for housing developments targeting this population. In addition, and as noted above, HCD’s Emergency Housing and Assistance Program funds both emergency shelters and transitional housing for homeless youth.

MHP’s “General” component, which is receiving $345 million under Proposition 1C, assists a wide variety of housing types. It is offered through a competitive process, and one way to enhance a project’s competitiveness is to reserve a certain number of units for special needs populations, such as homeless youth. Since MHP-General provides assistance for all of the income-restricted units in the project, and not just those reserved for special needs tenants, it may be a good choice for projects not using 9 percent tax credits that mix a relatively small number of units for youth with the general low income population. Because MHP-General by itself provides substantial funding for all units, it cannot be used together in a single project with the MHP-Homeless Youth funding that is the subject of this NOFA.

MHP’s Supportive Housing component, which is receiving $195 million under 1C, offers funding for units targeting certain disability groups

HCD’s Emergency Housing and Assistance Program Capital Development (EHAP-CD) provides capital funding for emergency shelters and transitional housing, including shelters and transitional housing for homeless youth.

Information on the General and Supportive Housing components of MHP, as well as EHAP-CD, is available at http://www.hcd.ca.gov/fa.

H. Eligible Project Sponsors

Sponsors and borrowing entities may be organized on a for-profit or not-for-profit basis. Any individual, public agency or private entity capable of entering into a contract is eligible to apply, provided they or their principals have successfully developed at least one affordable housing project. (Exception: for projects where at least 70 percent of the total units are Homeless Youth Units, there are alternate methods, under Section 7303(d), for meeting the development experience requirements.)

Sponsors must also demonstrate a minimum of 24 months experience in the ownership or operation of at least one Special Needs Population housing project with five or more units, and provide a letter of support from a local services funding agency. See Section 7343.

Sponsors must have site control in the name of the Sponsor or an entity controlled by the Sponsor as defined in Uniform Multifamily Regulations (UMR) Section 8303.

I. Sponsor Control of Borrowing Entities

Where the Sponsor is not the borrowing entity, as in limited partnerships, the Sponsor's roles, responsibilities, and benefits in both development and operations must be commensurate with activities normally undertaken or controlled by project developers and owners. The Sponsor will be reviewed to determine if adequate staffing levels exist to undertake and complete the project. The same criteria will be applied to evaluate Sponsor experience for purpose of awarding points.

Sponsor entities must maintain sufficient control of the borrowing entity to ensure that the Ultimate Borrower has the resources and experience to develop, own and manage the project. Sponsors will be required to prepare a written narrative explaining how the Sponsor, identified in the application, has full control of the Ultimate Borrower entity and development of the project. The Sponsor must expressly describe the management and control for each entity in the organizational structure of the Ultimate Borrower. The narrative must be submitted with the organizational documents for the Ultimate Borrower and must cite the organizational documents, with reference to page, paragraph or section number, that evidence the Sponsor's control of the Ultimate Borrower. The narrative and supporting documentation must be submitted at the time the Ultimate Borrower is formed and in all cases, prior to the construction loan close. Where the requisite control cannot be shown, the Sponsor will be required to change its organizational structure accordingly to comply with the applicable regulations and the loan commitment.

J. Eligible Uses of Funds

MHP funds will be provided as permanent financing only, and may be used to take out construction loans used to cover normal project development (capital) costs, as detailed in Section 7304. MHP funds may be used to capitalize a project operating reserve account up to the limit required under UMR Section 8308. Program funds may not be used for the cost of supportive services, although Department approved costs of on-site supportive services coordination may be treated as a project operating cost, payable from operating income. MHP funds must be attributable to the costs of “restricted” units (MHP units and units subject to a long-term regulatory agreement with occupancy and rent restrictions similar to those of MHP) or to the costs of facilities used for childcare, after-school care, and social service integrally linked to the restricted units.

K. Eligible Projects

Projects must qualify as rental housing developments, as defined in UMR Section 8301, and meet the requirements of Sections 7302 and 7342. For example, projects must contain five or more dwelling units.

Projects must also contain five or more Homeless Youth Units, as defined in Paragraph C.

Projects are ineligible if construction has commenced prior to submission of a complete application, or if the project is already fully funded. Projects must meet standards described in UMR Section 8310.

Projects receiving 9 percent tax credits are eligible under this NOFA.

L. Supportive Service and Property Management Requirements

Sponsors will be expected to have a clear understanding of the service needs of the specific segment of the homeless youth population that will occupy their project, and a well-defined service plan that ensures that these needs will be met. Typically, this service plan will include relatively intense on-site supportive services, with high staff-to-client ratios, as well as firm linkages to other services available in the community.

The application will need to identify a primary service provider that is firmly committed to the project, has experience with the targeted population, and has a track record of securing services funding. It will also require preparation of a detailed service plan and line-item services budget and include commitments or letters of intent for a minimum of 25 percent of the total service budget – except where the Department may approve an exception based on documentation confirming a successful history of securing similar funding for supportive services for the intended tenant population. See Section 7345.

The primary service provider for the project must demonstrate a minimum of 24 months experience in the provision of services to the targeted population, and a successful history of securing funds for similar activities.

The property manager must have a minimum of 24 months experience in managing a Special Needs Population housing project that would qualify as a rental housing development pursuant to UMR Section 8301(o). For proposed projects with fewer than 10 units, the Department may approve a property management agent with experience managing projects that do not qualify as rental housing projects, provided the agent has at least 24 months experience managing housing for the specific population targeted by the proposed project.

M. Maximum Loan Amounts

The maximum loan per project is $5,000,000. The maximum loan amount per Homeless Youth Unit is a function of unit size, location, and affordability level. The per-unit maximum is calculated by adding a base amount to an amount intended to compensate for debt service payment capacity lost as a result of rent restrictions. The base loan amounts under this NOFA will be:

- In Southern California, $80,000 for units in projects not receiving 9 percent tax credits, and $65,000 for units in projects receiving 9 percent tax credits.

- In Northern California, $65,000 for units in projects not receiving 9 percent tax credits, and $50,000 for units in projects receiving 9 percent tax credits.

(Southern California includes San Luis Obispo, Kern and San Bernardino counties, and all counties further south.)

Tables listing per-unit loan limits and targeted income limits and rents will be posted on the Department's website.

N. Loan Terms and Security

Loans will have a 55-year term, and bear simple interest at the rate of 3 percent per year. For the first 30 years, annual payments will be required in the amount of 0.42 percent of the outstanding principal loan balance. The annual payment amount for the next 25 years will be set by the Department in year 30, and will be the minimum amount necessary to cover the Department's monitoring costs. Unpaid principal and accrued and deferred interest will be due at the end of the loan term.

Cash flow remaining after payment of all debt service, operating expenses, required reserves and allowable deferred Developer Fee and Distributions per UMR Section 8314 shall be applied toward repayment of the MHP loan. If the terms of other public agencies' financing also require payments from remaining cash flow, the Department may agree to share the remaining cash flow with the public agencies in proportion to the respective loan amounts.

MHP loan documents will include a promissory note, deed of trust and regulatory agreement. The deed of trust and regulatory agreement may be subordinated to bond debt, and amortizing loans from institutional lenders and the federal government provided no balloon payments are due prior to the end of the MHP loan term. MHP loans may not be subordinated to local public agency loans or restrictions attached to these loans, unless the amount of the local loan is at least twice the amount of the MHP loan. See Section 7306(e) and UMR Section 8315.

The MHP loan must be secured by the fee or a leasehold interest in the property acceptable to the Department. The term of a leasehold interest must be at least 90 years (65 years where the lessor is a public entity) from the date the Department's documents are recorded, excluding any unexercised lease extensions. If the MHP loan is secured by a leasehold, the owner of the fee and the borrower must sign a recordable lease rider approved by the Department. See UMR Section 8316 for other leasehold requirements.

O. <u>Developer Fee and Distribution Limitations</u>

Developer fees mean the same as the definition of that term in the California Code of Regulations, Title 4, Section 10302. Developer fees are limited in accordance with the schedule shown in UMR Section 8312, which was adjusted for inflation in 2006. Distributions to the sponsor out of operating income are also limited in accordance with UMR Sections 8312 and 8314. The 2006 Developer Fee limits currently in effect are as follows:

- For new construction projects and rehabilitation projects where the cost of the rehabilitation (excluding contractor overhead and profit) is equal to or greater than $25,000 per unit: $21,000 per unit for the first 30 units and $8,500 per unit for each unit over 30.
- For acquisition/rehabilitation projects where the cost of rehabilitation is at least $7,500 per unit but less than $25,000 per unit: $10,000 per unit for the first 30 units and $4,500 per unit for units over 30.

P. <u>Prevailing Wage Requirements.</u>

Pursuant to Health and Safety Code section 50675.4(c)(2), projects receiving assistance under this NOFA are subject to State prevailing wage law, as set forth in Labor Code Section 1720 et seq.

Q. <u>Important Legal Matters.</u>

The Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, the Department will notify all interested parties. This NOFA provides a partial summary of the MHP statute and regulations. In the interest of brevity, it does not cover many aspects of those governing documents, some of which may be of critical importance to individual projects. For this reason, applicants are urged to carefully review the regulations before submitting applications.

Article XXXIV of the California Constitution requires advance voter approval of certain publicly funded and regulated low-income housing projects. Projects funded by MHP must either have Article XXXIV approval or be exempt from the need for this approval.

Sponsors must also be very careful to avoid violation of laws barring housing discrimination. The Department will review proposed tenant selection criteria for potential violations of these laws. It may condition funding on the elimination of restrictions that it believes to be impermissible, or reject an application where it determines that compliance with applicable law is not feasible.

R. Funding Compatibility

Sponsors typically anticipate using an array of funding sources to fund the construction and permanent financing of their projects. The Sponsor should determine, prior to applying for the MHP funds, that the requirements of the non-MHP funding sources are compatible with the requirements of the MHP. For example, compatibility issues have arisen with local and federal funding sources related to:

- The required terms of the MHP security when the security for the MHP loan is in a leasehold interest (UMR Section 8316);
- The MHP prohibition of senior debt that has a provision for a “balloon” payment. Often, bond financing provisions include interest rate resets with potential calls prior to the full amortization term of the loan. Any interest rate resets or similar provisions governing senior debt shall be subject to the approval of the Department and must include an interest rate cap acceptable to the Department which shall not jeopardize the feasibility of the project.
- The mandatory payment to HCD of the .42 percent debt service;
- The MHP requirement to target some of the project rents to extremely low income households that are below the federal income eligibility standard; and
- The State statutory requirement that projects financed with MHP pay no less than the State prevailing wage rate.

APPLICATION PROCEDURES

S. Application Process

The Application form will be available on the Department website on or about February 27, 2007. Applications for this funding round will be considered on an **“over-the-counter”** basis until available funds are exhausted. Applications will be accepted from 8:00 a.m. on March 9, 2007 until 5:00 p.m. on October 30, 2007 or until such earlier time as the Department has received what it determines to be a sufficient number of applications to reasonably use all funds currently available.

Applications will be reviewed in the order in which they are received. The Department will endeavor to complete an initial staff review within 15 working days after receipt of the application. The initial staff review will include determinations of completeness, threshold eligibility issues, and initial point scores. Qualifying projects will then move forward into a feasibility review.

Qualified projects successfully passing all reviews will be scheduled for presentation to the Department's Local Assistance Loan and Grant Committee (the "Committee") each month. The Department will endeavor to schedule all recommended applications for presentation before the next Committee Meeting held 60 days after receipt of the last item required for review. The Department's date stamp on the last item required to complete the review will be used to determine the order in which applications are presented to the Committee.

As more particularly described in Paragraph W below, projects must receive a minimum score of 115 points, as determined by Department staff, in order to be considered for a funding award. Additionally, projects must score at least four points in the Development and Ownership Experience of the Project Sponsor point category and at least five points in the Project Readiness point category.

The Department will give notice on the Department's website when a sufficient number of applications have been received to exhaust the Supportive Housing funds offered under this NOFA. Applications will not be accepted after such notice. Any applications received prior to the notice that are deemed eligible for funding will be prioritized based on the Department's date and time stamp for the completed application. When the funds offered under this NOFA have been exhausted, any remaining applications may be returned to the Sponsor for submittal in a future funding round. The Department reserves the right to award more than the $24 million under this NOFA if necessary to fully fund the last approved project.

T. Application Workshops

Application workshops will be held in early March. Dates and locations will be available at http://www.hcd.ca.gov/fa/mhp/ by February 13, 2007.

U. Application Submittal Procedures

Applications must be submitted on forms provided or approved by the Department. Application forms must not be modified. A complete original application, plus one copy, must be received by the Department.

To receive an application package, please visit the Department's website on or about February 27, 2007, or contact Barbara Stolk at (916) 445-0576 or bstolk@hcd.ca.gov. Applications must be delivered to one of the following addresses:

U.S. Mail	***Private Carrier***
Barbara Stolk Department of Housing and Community Development Division of Financial Assistance P.O. Box 952054 Sacramento, CA 94252-2054	Barbara Stolk Department of Housing and Community Development Division of Financial Assistance 1800 Third Street, Room 390-5 Sacramento, CA 95814

It is the applicant's responsibility to ensure that its application is clear, complete and accurate. After the application has been received, MHP staff may request clarifying information.

V. Application Point Scoring

The criteria that will be used to score projects are those specified in Section 7346 and 7320 of the MHP regulations, except that the Adaptive Reuse/Infill/Proximity to Amenities criterion described in Section 7320(b)(7) will not be used.

The applicable criteria are briefly summarized below. In assessing whether a project is "At-risk," MHP will use the same standards as TCAC. See TCAC's regulations, Section 10325(g)(5), available on their website, identified in Paragraph M.

Projects must receive a minimum point score of 115, as determined by MHP staff, in order to be considered for a funding award. Additionally, projects must score at least four points in the Development and Ownership Experience of the Project Sponsor category and at least five points in the Project Readiness category.

Criterion	Max. Points	Comments
Extent Project serves the lowest income levels.	35	The income levels referenced in the regulations are posted on the Department website.
Extent the Project addresses the most serious local housing needs.	15	Local housing need is established on the basis of verification by the locality and for some mixed projects, by documenting the market vacancy rate.
Development and ownership experience of the Sponsor	20	Minimum point score of four points is required. Experience for the prior 10 years is considered.
Percentage of units for families or special needs populations (or status as an "At-risk" housing).	35	Homeless Youth Units count as special needs populations.
Leverage of other funds.	20	Projects demonstrating collaboration and focus on measurable outcomes and service utilization will receive a competitive advantage in the leverage category. See application and Section 7346(c) for specific requirements.
Project readiness	15	Minimum point score of five points is required. The total score is the sum of point awards in six sub-categories measuring readiness.
Total	140	

W. <u>Disclosure of Application.</u>

Information provided in this application will become a public record available for review by the public pursuant to the Public Records Act. As such, any materials provided will be disclosable to any person making a public records request. As such, we caution you to use discretion in providing us with information that is not specifically requested, including but not limited to, bank account numbers, personal phone numbers and home addresses. By providing this information to the Department, the sponsor is waiving any claim of confidentiality and consents to the disclosure of all submitted material upon request.

Questions should be directed to the MHP program staff at (916) 323-3178. Thank you for your interest in the Multifamily Housing Program.

Sincerely,

Richard L. Friedman
Deputy Director